

Message Text

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INFO OCT-01 IO-13 ISO-00 ACDA-12 AGRE-00 AID-05 CEA-01
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EB-08 EPA-01 SOE-02 DOE-15 FMC-01 TRSE-00 H-01
INR-10 INT-05 JUSE-00 L-03 NSAE-00 NSC-05 NSF-01
OES-09 OMB-01 PA-01 PM-05 SP-02 SS-15 ICA-11
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FM USMISSION USUN NEW YORK
TO SECSTATE WASHDC 3033

C O N F I D E N T I A L SECTION 01 OF 2 USUN NEW YORK 03345

FROM LOSDEL

E.O. 11652: GDS
TAGS: PLOS
SUBJECT: LOS CONFERENCE DAILY SUMMARY - AUGUST 25

SUMMARY: NG-2 REVIEWED CONTRACTOR PAYMENTS TO THE
AUTHORITY WITH SPECIFIC REFERENCE TO ROYALTIES AND SOFT
CURRENCY QUESTIONS. NG-3 BEGAN DISCUSSION OF THE
SUBSIDIARY ORGANS OF THE COUNCIL. NG-7 DEBATE FOCUSED
ON WHETHER BOUNDARY DELIMITATION SHOULD BE A "PACKAGE".
TECHNICAL REVISIONS CONTINUED IN THE DRAFTING COMMITTEE.
THE THIRD COMMITTEE DISCUSSED THE GENEVA PROPOSALS.
END SUMMARY.

1. NEGOTIATING GROUP 2 MET TO DISCUSS CONTRACTOR PAYMENTS
TO THE AUTHORITY THROUGH A ROYALTY-ONLY SYSTEM. THERE
WAS CONCERN AMONG THE G-77 THAT A FIXED ROYALTY CHARGE
WOULD BECOME TOO LOW AS PRODUCTIVITY IN MINING ACTIVITY
INCREASES. IT, THEREFORE, DESIRES A RELATIVELY HIGH
ROYALTY PAYMENT WHICH IS SUBJECT TO REVIEW FROM TIME
TO TIME. THE SOVIETS, WHO ARE MOST LIKELY TO USE THE
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ROYALTY-ONLY MODE OF PAYMENT, AT FIRST PROTESTED THAT
THEIR ECONOMIC SYSTEM NEEDED CERTAINTY WITH REGARD TO
THE ROYALTY IN ORDER TO ALLOCATE RESOURCES PROPERLY.
AT A LATER STAGE IN THE DISCUSSION, THE USSR INDICATED
THAT IT MIGHT BE ABLE TO ACCEPT A REVIEW OF THE ROYALTY
IF THE REVIEW CAN CHANGE ROYALTIES ONLY WITHIN CERTAIN
LIMITS.

2. THERE WAS ALSO DISCUSSION OF WHETHER PAYMENTS IN KIND AND PAYMENTS IN SOFT CURRENCIES SHOULD BE ALLOWED. THERE WAS NO CONSENSUS AMONG THE G-77 ON THESE ISSUES, AND THE US, THE EEC, AND JAPAN WITHHELD COMMENT AT THIS SESSION BECAUSE THE ROYALTY-ONLY SYSTEM IMPACTS MORE ON THE SOVIET UNION THAN ON THEM. AT THE END OF THE DISCUSSION OF ROYALTY-ONLY PAYMENTS, THE US INTENDS TO MAKE A BRIEF STATEMENT TO OPPOSE SOFT CURRENCY PAYMENTS TO THE AUTHORITY.

3. NG-3 BEGAN DISCUSSION OF ARTICLES 161-164, THE SUBSIDIARY ORGANS OF THE COUNCIL. CHAIRMAN ENGO SUGGESTED THE NEED FOR STREAMLINING THESE SUBSIDIARY ORGANS (THE ECONOMIC PLANNING COMMISSION, THE TECHNICAL COMMISSION, AND THE RULES AND REGULATIONS COMMISSION) AS AN ECONOMY MOVE AND POSSIBLY EVEN DOING AWAY WITH THE RULES AND REGULATIONS COMMISSION. THE US, USSR, CANADA AND JAPAN INDICATED THEY WOULD CONSIDER WAYS TO COMBINE THE TECHNICAL COMMISSION AND THE RULES AND REGULATIONS COMMISSION. OTHERS (PERU AND COLOMBIA) SUGGESTED MORE COMMISSIONS MAY BE NEEDED, PERHAPS EVEN A SEPARATE FINANCIAL COMMISSION WHICH TRINIDAD AND TOBAGO, SUPPORTED BY THE FRG, ALSO SECONDED.

4. A NUMBER OF DELEGATIONS (JAMAICA, PERU, ALGERIA AND
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PAKISTAN) STRESSED THAT THE PRIMARY CRITERIA FOR MEMBERSHIP SHOULD BE EQUITABLE GEOGRAPHIC DISTRIBUTION WHILE THE US AND JAPAN STRESSED EXPERT QUALIFICATIONS.

5. SEVERAL DELEGATIONS COMMENTED THAT COMMISSION FUNCTIONS SHOULD NOT INCLUDE EXECUTIVE DUTIES. INDIA, FOLLOWED BY PAKISTAN AND COLOMBIA, RAISED ARTICLE 160 (2)(X) AND ARTICLE 163 (2)(XIV) RELATING TO CONTRACT APPROVAL INDICATING THEIR BELIEF THAT CHANGES WERE NECESSARY.

6. MANY SPEAKERS POINTED OUT THE NEED TO STUDY THE STRUCTURE OF THE COMMISSIONS AND THEIR FUNCTIONS AS WELL AS THEIR RELATIONSHIP TO THE SECRETARIAT. IN THIS CONTEXT, THE US POINTED TO ARTICLE 163 (ENVIRONMENTAL PROVISIONS) AS AN EXAMPLE OF A FUNCTION THAT COULD BE CLARIFIED AND GIVEN SUITABLE PROMINENCE.

7. JUDGE MANNER (FINLAND) HELD A PROCEDURAL MEETING OF NG-7, WHERE DEBATE CENTERED AROUND THE QUESTION OF WHETHER THE BOUNDARY DELIMITATION PROBLEM SHOULD BE CONSIDERED AS A "PACKAGE" OR WHETHER THE THREE COMPONENT

ISSUES--IN PARTICULAR DISPUTE SETTLEMENT--COULD BE SEPARATED FOR PURPOSES OF DISCUSSION. AFTER HEARING TWENTY-THREE SPEAKERS, MANNER RULED THAT NO SMALL PRIVATE OR EXPERT GROUPS WOULD BE FORMED FOR THE PRESENT. THE THREE ISSUES WILL BE DISCUSSED SEPARATELY BY THE FULL NEGOTIATING GROUP, BEGINNING WITH A DISPUTE SETTLEMENT DISCUSSION ON AUGUST 28. THE INTERIM REGIME QUESTION WILL BE TAKEN UP NEXT, FOLLOWED FINALLY BY A DEBATE ON CRITERIA FOR DELIMITATION.

8. THE US (SOHN) INTRODUCED A SLIGHTLY REVISED AND ANNOTATED VERSION OF THE SURVEY OF CONCILIATORY APPROACHES TO DISPUTE SETTLEMENT WHICH WAS PRODUCED BY THE EXPERT GROUP UNDER HIS CHAIRMANSHIP AT THE END OF THE CONFIDENTIAL

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GENEVA PART OF THE SESSION (NG-7/20). THE NEW VERSION

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ADDS TO THE ALTERNATIVE DISPUTE SETTLEMENT FORMULAE PRECEDENTS FROM EXISTING INTERNATIONAL INSTRUMENTS, AND IT WILL FORM THE BASIS FOR DEBATE ON AUGUST 28.

9. THE SIX LANGUAGE GROUPS OF THE DRAFTING COMMITTEE

MET AND UTILIZED THE SECRETARIAT PAPER ON INTERNAL REFERENCES TO FOCUS THEIR WORK. ALL POSITIONS ADOPTED TO DATE ARE MERELY PREFERRED POSITIONS SUBJECT TO FUTURE MODIFICATION AS NECESSARY. THE GROUP DETERMINED TO CONSIDER INFORMAL PAPER NO. 2 (ON RECURRING PHRASES) AT ITS NEXT MEETING.

10. A FULL DRAFTING COMMITTEE MEETING WHICH FOLLOWED WAS LARGELY DEVOTED TO A REPORT FROM THE SIX CO-ORDINATORS ON THE GROUP POSITIONS. IN SUMMARY, EACH GROUP DID NOT EXPECT ITS PREFERENCES TO PREJUDICE THE CHOICE OF OTHER GROUPS, AND STYLISTIC DIFFERENCES WITHOUT SUBSTANTIVE MEANING COULD BE TOLERATED IN THE CONVENTION.

11. THE THIRD COMMITTEE CONTINUED ITS DISCUSSION OF CATEGORY III ITEMS AND REVIEWED ALL OF THE PROPOSALS
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WITH THE EXCEPTION OF THE ARAB AMENDMENT ON RESPONSIBILITY AND LIABILITY. THERE IS NO PROPOSAL IN CATEGORY III WHICH APPEARS AT THIS TIME TO BE CAPABLE OF ACHIEVING SUFFICIENT AGREEMENT TO BE MOVED TO CATEGORY I OR II. DISCUSSIONS ALSO CONTINUED WITHIN THE SMALLER VALLARTA NEGOTIATING GROUP ON ARTICLES 221(B) AND 231 BUT NO CONSENSUS WAS ACHIEVED. LEONARD

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